

IN RE: Agreement between BellSouth ) ORDER DENYING  
Telecommunications, Inc. d/b/a AT&T South ) PETITION FOR  
Carolina and Alltel Communications, ) REHEARING OR  
Inc./Alltel Holding Corporate Services, Inc. ) RECONSIDERATION

Permit a requesting telecommunications carrier to extend its current interconnection agreement, regardless of whether its initial term has expired, for a period of up to three years, subject to amendment to reflect prior or future changes of law. During this period, the interconnection agreement may be terminated only via the carrier's request unless terminated pursuant to the agreement's default provisions.

AT&T urges this Commission to rule in this Docket as it ruled in the AT&T South Carolina-Sprint arbitration proceedings, Docket No. 2007-215-C, Order No. 2007-683, by finding that this Commission has concurrent jurisdiction with the FCC over the Merger Commitments, but that we will not assert such jurisdiction. AT&T urges this Commission to let the FCC provide “overarching guidance” in this matter, and that judicial economy, uniformity, and certainty are all best served by letting the FCC decide if the Merger Commitments upon which ACI relies require AT&T to extend the interconnection agreement. We disagree on both points.

While both the “overarching guidance” and the “judicial economy, uniformity, and certainty” arguments had vitality at the time of our decision in Order No. 2007-683, neither argument is useful under the present circumstances of this case, especially since several other state commissions have already enforced the Merger Commitments. See Tennessee Regulatory Authority dockets 07-00161 and 07-00162, Public Utility Commission of Ohio Case Number 07-1136 TP.CSS, Georgia Public Service Commission Docket 25430 and Kentucky Public Service Commission Docket 2007-00255. The Merger Order expressly preserves this Commission’s authority with respect to authority under the Act and the Merger Commitments, providing that “[i]t is not the intent of these commitments to restrict, supersede, or otherwise alter state or local jurisdiction under the Communications Act of 1934, as amended, or over the matters addressed in these commitments....” Merger Order at 147, Appendix F. Accordingly, we hold that we were correct in our ruling to enforce the Merger Commitment in the present case.

AT&T further requests that this Commission rehear and/or reconsider the decision that AT&T South Carolina's "Emergency Motion must be denied." See Order No. 2008-504 at 6. "For all of the reasons set forth in its previous submissions in this docket", AT&T again argues that it is entitled to rescission under the principles set forth in State Farm Mutual Auto. Ins. Co. v. Turner, 399 S.E. 2d 22, 23 (S.C. Ct. App. 1990) (AT&T Petition at 2).

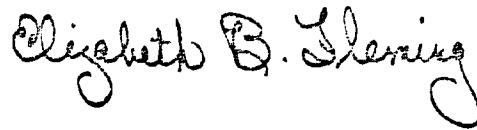
As stated in our Order No. 2008-504, "although we understand the basis for AT&T's Emergency Motion is that it mistakenly believed that ACI was a certificated CLEC in South Carolina at the time of submission of the Second Amendment to the Interconnection Agreement, this stated basis is not relevant to the operation of the Merger Commitments. It is clear that under the Merger Commitments, AT&T was required to agree to the Second Amendment extension of the Interconnection Agreement with ACI, extending that agreement for three years . . ." Order No. 2008-504 at 6. AT&T makes no new argument in this regard, and our ruling remains as stated in the original order.

In Order No. 2008-504, we found that AT&T is entitled to renegotiate the agreement even though it is validly extended. We reaffirm that position in this Order; however, we also find that we were correct in our earlier ruling which denied AT&T's Emergency Motion.

The Petition is denied and dismissed.

This Order shall remain in full force and effect until further order of the Commission.

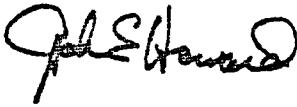
BY ORDER OF THE COMMISSION:



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Elizabeth B. Fleming, Chairman

ATTEST:



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John E. Howard, Vice Chairman

(SEAL)